



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: C. M. Hansen

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### Reasons for the Petition

### Relief Requested

The Examiner has deemed that amended claims (which read on the elected species before the amendment) do not read on the elected species and withdrew the amended claims from consideration twice -- once in a Final Office Action and the second time in an Advisory Action. The Examiner's withdrawal is based on clear errors in fact. Applicants assert that the claims as amended do read on the elected species and believe that the Examiner improperly withdrew the amended claims from consideration. Applicants respectfully request that the amended claims be reinstated and properly considered by withdrawing finality for at least the following reasons.

### Pertinent Facts of the Case and Arguments

1) On September 27, 2002, an Office Action was issued that stipulated a restriction/election requirement. The species election required that Applicants elect one of seven species. As designated by Examiner Hanson, one of the species, Species A1, was directed to Figs. 1-4.

2) On October 16, 2005, Applicants elected Species A1 directed to Figs. 1-4.

3) On January 5, 2005, a response (“January 5 Response”) to a Non-Final Office Action dated October 5, 2004 was filed. In the January 5 Response, one of the features that was amended in the claims was “at least one drive branching link” to “first and second drive branching links.” (See, for example claim 1 in the January 5 response.) That is, the drive branching links were further limited in view of Figs 1- 3. The fact that amendment was based on Figs. 1-3 was clearly pointed out in the January 5 Response.

4) On April 21, 2005, a Final Office Action (“April 21 Final Office Action”) was issued. In the Final Office Action, the Examiner withdrew claims 1-3, 21, 22, 34, 35, 37, and 38 from consideration by stating that these claims “are directed to an invention that is independent or distinct

from the invention originally claimed for the following reasons: the first and second drive branching links are directed towards non-elected species A2, A5, A6, and A7 (not to the elected species A1; paragraph 140).” (See page 2 of the April 21 Final Office Action.)

The Examiner further stated in the same Action on page 6 that

Applicant argue that Thomas does not disclose the “first and second drive branching links branch off separately from the guiding means to work in tandem to toggle the first and second toggle means.” Examiner does not agree or disagree with applicant’s assessment other than to point out that the first and second drive branching links (presumably 27 and 51 as there is no antecedent basis for the “first” and “second” designation) are directed to non-elected species as confirmed by applicant’s specification [paragraph 140].

5) On September 21, 2005, a response (September 21 Response) to the April 21 Final Office Action was filed. In the Response, it was pointed out that (A) the amended claims (claims 1-3, 21, 22, 34, 35, 37, and 38) are all directed to elected species A1 (Figs. 1-4) because, for example, “a pair of drive branching links 27” is disclosed in Fig. 2 and is described on page 13 of the present specification (see page 14, Point (1) in the September 21 Response); (B) claim 1 (as well as claim 21 and new claim 37) was amended to more clearly read on Figs. 1-4 by limiting from “at least one drive branching link” to “first and second drive branching links” (see pages 14-15, point (2)); and (C) the Examiner’s contention that amended claim 1 is “directed to an invention that is independent or distinct from the invention originally claimed” because of the amendments to the drive branching links is inconsistent because the original limitation, “at least one drive branching link” is broader than “first and second drive branching links,” and therefore, the narrower limitation cannot be independent and distinct from the broader original limitation (see page 15, point (3)).

Furthermore, in the September 21 Response, Applicants addressed the Examiner’s allegation that Paragraph 140 of the present specification confirmed that first and second driving branching links are directed to non-elected species. Applicants asserted in the Response that although Paragraph 140 states that the drive branching links 27, 51 are employed in second, fifth, sixth, or seventh embodiment, this does not rule out or preclude the usage of the drive branching links 27, 51 in other embodiments. For example, Fig. 2, which illustrates the first embodiment,

clearly shows a pair of drive branching links 27. (See page 16, second complete paragraph of the September 21 Response.)

Applicants further point out that the Examiner failed to consider pending claims 33 and 34. That is, the Examiner provided no reasons for withdrawing or rejecting those claims in the April 21 Final Office Action.

6) On October 12, 2005, an Advisory Action (October 12 Advisory Action) was issued. In the Advisory Action, the Examiner stated as follows:

Applicant's assertion that the amendments of 1/5/2005 are generic to all species is not persuasive, given that applicant's amendment still appears to be pointed toward non-elected species, specifically with regard to the added recitation that "first and second drive branching links separately couple (sic) to said guiding means". As seen in figure 2, the branching links 27 are clearly coupled, in unison (not separately), to guide base 22 by same pin 25.

Response to the October 12 Advisory Action

The Examiner has not correctly read Applicants' September 21 Response. Applicants never indicated that the amendments made to claims in the January 5 Response were generic to all species. What was stated on page 16, third complete paragraph in the September 21 Response was that "[e]ven if the amended claims and new claims read on other species (e.g. species with drive branching links 51) as well as on the elected species (e.g. A1), that is no reason to withdraw the claims from consideration." Applicants never asserted that amendments themselves are generic to all species. In fact, Applicants will show below that the amended claims with the limitation, first and second drive branching links, cannot be generic to all species but are narrowly directed to Species A1 and other species that have a pair of drive branching links.

There are only two examples of drive branching links disclosed in the present specification: a pair of drive branching links 27 as shown in Figs. 1-3, 6, and 7 and one, single drive branching link 51 as shown in Figs. 5 and 8-10. Therefore, by amending claims to state "first and second drive branching links" as Applicants had, the claims were rendered to read only on Figs.

